

I do not deem it necessary to express any opinion upon this question (which, perhaps, is not free from difficulty), because, under the circumstances of this case, and in view of the terms in which these services, as forming an inducement to the deed, are introduced in the answer, I do not regard them as brought forward for the purpose of showing that they constituted any portion of the valuable consideration upon which the deed was executed. It is clear to me, that the fact of the rendition of these services, by the son to his father, is relied upon in the answer of the son, not for the purpose of establishing any indebtedness from the father to his son in respect thereof, but for the purpose of showing that the natural love and affection of the father for the son, was strengthened and invigorated by the fact, that his son had lived with, and dutifully and faithfully served him. The language of the answer of the son is, that his father "actuated, as he believes, by natural love and affection, and by satisfaction with his past services and conduct, undertook and promised this defendant to purchase for him a farm, and convey the same, and settle him thereon;" "that the said farm having cost a very large sum of money, and more than his co-defendant was willing to give him, he expressly stipulated with this defendant that he should pay him \$5,000 for said farm, and engaged, when said sum should be paid, to give him, this defendant, a deed for the same."

My impression, therefore, is clear and decided, that the only valuable consideration set up in support of this deed is the sum of \$5,000, and that the property, so far as its value exceeded that sum, was settled by the father upon the son, in consideration of natural love and affection; this natural feeling being enhanced by the fact, that the son continued to live with, and serve his father, after he had attained an age to be useful to him.

But, even if the answer was susceptible of a different construction, and it is to be understood as meaning to set up these services, as constituting a part of the valuable consideration for the deed, and conceding the proof of them to be admissible (a point not meant to be decided), still I am of opinion it will